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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/092,145	03/05/2002		Zhigang Qi	HPC-121 4777	
7590 06/17/2004			EXAMINER		
Mark Levy SALZMAN & LEVÝ				MAPLES, JOHN S	
19 Chenango Street				ART UNIT	PAPER NUMBER
Binghamton, N	TY 139	01	1745		

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) OIET AL Examiner John S. Maples 1745 OIET AL Examiner John S. Maples 1745 OIET AL Examiner John S. Maples 1745 OIET AL OIET AL			(/					
Examiner		Application No.	Applicant(s)					
John S. Maples 1745		10/092,145	QI ET AL.					
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Edentions of them to be easible under the provision 312 CFR 1.13(6), in no event, however, may a reply be timely filled - If the period for reply is pecified above it is task then thely (30) days, a reply within the attackery minimum of lithin (30) days will be considered timely. - If NO period for reply is pecified above, the maximum studatory period will apply and will egips (50) MONTH's from the realing date of his communication. - Failure is may within the act or adented period for reply will, by adards, causes the application to become ABARDONED (30 U.S. 5, 133). - Failure is may within the act or adented period for reply will. By adards, causes the application in become adards. Child (30) MONTH's from the realing date of his communication. - Failure is may within the set of adented period for reply will. By adards, causes the application in become ABARDONED (30 U.S. 5, 133). - Failure is may within the set of adented period for reply will. By adards, causes the application in the communication of the communication, even if sensy related any experiment of the communication. - Failure is may within the set of adented period for reply will be added to the mailing date of the communication. - Failure is may will be considered the mailing date of the communication. - Failure is may will be considered to the mailing date of the communication. - Failure is may will be considered to the mailing date of the communication. - Failure is may will be added to the mailing date of the communication. - Failure is may will be added to the mailing date of the communication. - Failure is may will be added to the mailing date of the communication. - Failure is may will be added to the communication of the communication. - Failure is may will be added to the mailing date of the c	Office Action Summary	Examiner	Art Unit					
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1) Responsive to communication(s) filed on	THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR : after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, are - If NO period for reply is specified above, the maximum statutory perio - Failure to reply within the set or extended period for reply will, by stat. Any reply received by the Office later than three months after the mail	J. 1.136(a). In no event, however, may a reply be ti sply within the statutory minimum of thirty (30) da id will apply and will expire SIX (6) MONTHS fron tue, cause the application to become ARANDONIX	mely filed ys will be considered timely. the mailing date of this communication. ED (36 U.S.C. & 133).					
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-20 leare pending in the application. 4a) Of the above claim(s) 11-20 leare withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are epjected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Prefisperson's Patent Drawing Review (PTO-948) 3) Notice of Orefisperson's Patent Drawing Review (PTO-948) 3) Paper Not(s)/Mail Date. Paper Not(s)/Mail Date. 15 Paper not (s)/Mail Date. 16 Optice of Drefisperson's Patent Drawing Review (PTO-948) 17 Optice of Informal Patent Application (PTO-152) 18 Paper not (s)/Mail Date. 19 Optice of Informal Patent Application (PTO-152) 19 Optice of Drefisperson's Patent Drawing Review (PTO-948) 10 Opti	Status							
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Application/Control Number: 10/092,145 Page 2

Art Unit: 1745

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-10, drawn to a method for improving the performance of electrodes, classified in class 429, subclass 13.

- II. Claims 11-20, drawn to an article, classified in class 429, subclass 30.
- 2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed could be used to make a materially different product such as one that does not include a water-repelling agent.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 4. During a telephone conversation with David Banner on April 8, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

Art Unit: 1745

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

- 6. The following is a quotation of the first paragraph of 35 U.S.C. 112:
 - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 7. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for steam or high temperature, does not reasonably provide enablement for the temperature of the aqueous solution being just above room temperature. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Reference is made to pages 5, 6, 8, 9 and 10 of the present application where the temperature of the aqueous solution is at boiling or at a very high temperature, the temperature being substantially above room temperature. Reference is made particularly to the Examples, where on page 9, the electrodes were either boiled in water or steam applied thereto. On page 10, three times the membranes were treated to steam, which results of such treatment is set forth in Figures 1 and 2.

- 8. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 9. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Application/Control Number: 10/092,145

Art Unit: 1745

In each of claims 1, 9 and 10, applicant has used the term "and" between "electrode", "CCMs" and "MEA's". This is incorrect because in the beginning of claim 1, applicant used the term "or" when referring to the combination of these elements.

In claim 9, line 2, it is unclear what the expression "MEAs are kept in the liquid phase" means?

Claim 10, line 2, the expression "MEAs are kept in the vapor phase" is indefinite because it is not known what this means?

Claims 2-8, dependent on claim 1, fall therewith.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 11. Claims 1, 3, 4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Keenan-US 6,174,337.

Reference is made to the Abstract in Keenen along with column 14, lines 27-38. In these portions of Keenen, an electrode is subjected to very hot water and steam for at least one hour and then the electrode is operated in a battery cell and observed. The claimed inorganic material of claim 4 is met by use of the water in Keenen.

12. Claims 1, 3-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwasaki et al.-US 5.985.477. (Iwasaki)

Application/Control Number: 10/092,145

Art Unit: 1745

See column 6, lines 27-59 in the patent to Iwasaki where an electrode is immersed in boiling water along with an electrolyte film (organic material) and then the elements were incorporated in a battery cell and evaluated. Water constitutes the inorganic material.

13. Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Weres et al.-2001/0042682. (Weres)

See paragraphs 0085-087 in Weres for the teachings of the claimed subject matter where the hot electrode is dipped in water for a short period of time thus meeting the limitations of claim 2. The water constitutes the inorganic material of claim 4.

14. Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Koyama et al.-2002/0061431. (Koyama)

Reference is made to paragraphs 0160, 0275, 0296 and 0314 for the disclosure of the electrode being dipped in boiling water and then used in a cell and evaluated. The use of the water constitutes the inorganic material.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Thursday from 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John S. Maples
Primary Examiner
Art Unit 1745

JSM/6-14-2004